

claims 45 and 48. Specifically, the disclosure of Walker specifies that the seller transmits a “floor price”, which is defined as “a price below which the item will not be sold” to the posting site (see Walker, Col. 3, lines 60-61, for example). In contrast, independent claims 45 and 48 recite receiving a desired transaction price from the requester, which is obviously a different value than Walker’s “floor price.” Thus, Walker neither teaches nor suggests a seller transmitting a desired price to a posting site device, as recited in independent claims 45 and 48.

Further, the posting site disclosed by Walker examines all prior transaction records for the same class and type item and provides an estimate of the value based on “sales during the past year for the item, the last fifteen similar items sold, or a trend analysis” (Walker, Col. 7, lines 5-6 and 17-19). In each case, the value estimate of Walker is based on all prior transaction records for the same class and type item. In contrast, the reading unit of the present invention initially extracts prior transaction records containing identifying information and quality information coincident with the identifying information and quality information of the item for sale (i.e., first extraction records) and then further parses the extracted records by price range (i.e., second extraction records). The second extraction records are used in the calculating process to provide the seller with an average number of bid tender days to complete a transaction and an average transaction price for prior transactions by price range, as shown in Fig. 12.

Additionally, there is nothing in the record that supports the Examiner’s statement that sorting a table containing the total number of days necessary and sum of completed transaction prices by the final sales price would have been obvious to one skilled in the art (Office Action at page 14). Here, the Examiner is clearly using hindsight reconstruction to deprecate portions of the claimed invention for which the Examiner was unable to locate prior art.

Based on the above, Walker fails to teach or suggest a seller transmitting a desired price to a posting site and a system using a statistic calculating process that provides an average number of bid tender days to complete a transaction and an average transaction price for prior transactions containing identifying information and quality information coincident with the item for sale for each price range. Thus, it is clear that Walker fails to disclose or render obvious a system containing the aforementioned features, as is claimed in independent claims 45 and 48.

With respect to independent claims 46 and 49, Applicant asserts that Walker fails to teach or suggest the claimed system for at least the following reasons. First, as previously discussed, Walker fails to teach or suggest a system in which the seller transmits a desired price. Second, as previously discussed, Walker fails to teach or suggest providing an average number of bid tender days to complete a transaction and an average transaction price by price range. Third, Walker fails to teach or suggest a system including a statistical process that provides an average number of bid tender days to complete a transaction and an average transaction price for prior transactions containing identifying information and quality information coincident with the item for sale based on the number of specified advertising periods for the prior transactions for each price range, as is claimed. In contrast, as discussed above, Walker's system simply examines all prior transaction records for the same class and type item and provides an average transaction price based on either all sales during the past year, the last fifteen similar items sold, or trend analysis. Thus, the disclosure of Walker does not teach or suggest a system that provides an average transaction price for prior transactions containing identifying information and quality information coincident with the item for sale based on the number of specified advertising periods for the prior transactions for each price

range. Based on the above, it is clear that Walker fails to disclose or render obvious a system containing these features.

With respect to dependent claims 29-32, 40-43 and 47, these claims depend either directly or indirectly from independent claim 45 or independent claim 48, dependent claims 29-32, 40-43 and 47 are in condition for allowance for the reasons explained above with respect to independent claims 45 and 48.

Accordingly, Applicant respectfully requests that the above rejection be reconsidered and withdrawn for independent claims 45, 46, 48, 49 and 50 and dependent claims 29-32, 40-43 and 47.

2. Claims 33 and 44 were rejected under §103(a) over Walker in view of Cherrington. This rejection is respectfully traversed.

Claims 33 and 44 depend indirectly from independent claims 45 and 48, respectively, and independent claims 45 and 48 define patentable subject matter for the reason explained above. Accordingly, Applicant respectfully requests that the above rejection be reconsidered and withdrawn.

For at least the forgoing reasons, Applicant respectfully submits that all pending claims herein are in condition for allowance. Accordingly, the Examiner is requested to issue a Notice of Allowance for this application in due course.

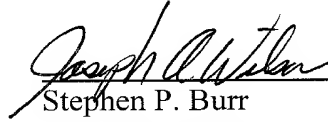
If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

April 11, 2007

Date



Stephen P. Burr
Reg. No. 32,970

Joseph A. Wilson
Reg. No. 53,780

SPB/JAW/gmh

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Customer No.: 025191
Telephone: (315) 233-8300
Facsimile: (315) 233-8320